IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

WEDNESDAY, THE 19TH SEPTEMBER 2007 / 28TH BHADRA 1929

WA.No. 2295 of 2007

AGAINST THE JUDGEMENT IN WPC.26388/2007 Dated 05/09/2007
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APPELLANT/PETITIONER

M/S.BHAGEERATHA ENGINEERING LIMITED,
REGISTERED AND HEAD OFFICE AT VAZHAKALA,
KAKKANAD, NOW FUNCTIONING AT KACHERIPADY JUNCTION
ERNAKULAM, REPRESENTED BY ITS ASSISTANT GENERAL
MANAGER.

BY ADV. SRI.ALIAS M.CHERIAN

RESPONDENTS/RESPONDENTS
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1. THE ASSISTANT LABOUR COMMISSIONER
(CENTRAL) AND CONTROLLING AUTHORITY UNDER
THE PAYMENT OF GRATUIT ACT 1972,
AT KENDRIYA SHRANMSADAM, OOLIMUGHAL,
KAKKANAD, ERNAKULAM.

2. MR.P.SUREENDREN,
THAVIDISSERY P.O., PORAKKUNNU (VIA),
M.M.BAZAR, KANNUR DISTRICT, KERALA - 670 306.

BY ASST. SOLICITOR GENERAL MR.P.PARAMESWARAN NAIR

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 19/09/2007 ALONG WITH WA NO.2298/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN, J.

W.A.Nos.2295 & 2298 of 2007

Dated, this the 19th day of September, 2007

JUDGMENT

H.L.Dattu, C.J.

Questioning the correctness or otherwise of the orders passed by the controlling authority under the provisions of the Payment of Gratuity Act, 1972 ('the Act' for short), the petitioner is before this Court in W.P.(C) Nos.26383 & 26388 of 2007. The learned Single Judge has rejected the writ petitions on the ground that the petitioner has an alternative remedy of appeal. Aggrieved by the said order passed by the learned Single Judge, the petitioner is before us in these writ appeals.

2. Sub-section (7) of Section 7 of the Act provides for filing an appeal. The said provision is as under:

> "(7) Any person aggrieved by an order under sub-section (4), may, within sixty days from the date of the receipt of the order, prefer an appeal to the appropriate Government or such other authority as may be specified by the appropriate Government in this behalf.
>
> Provided that the appropriate Government or the appellate authority, as the case may be, may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the said period of sixty days, extend the said period by a further period of sixty days.
>
> Provided further that no appeal by an employer shall be admitted unless at the time of preferring the appeal, the appellant either produces a certificate of the controlling authority to the effect that the appellant has deposited with him an amount equal to the amount of gratuity required to be deposited under sub-section (4), or deposits with the appellate authority such amount."

3. The aforesaid Section provides for filing of an appeal by an aggrieved person if he is aggrieved by the orders passed by the controlling

authority under the provisions of the Act. In our opinion, the appellate remedy so provided under the Act is not only an effective remedy but also an efficacious remedy. Bypassing that remedy the petitioner should not have approached this Court. Keeping that in view, the learned Single Judge, in our opinion, has rightly rejected the writ petitions. The order passed by the learned Judge is in consonance with the provisions of the Act and also the settled legal principles. Therefore, interference with the said order is not called for. The writ appeal requires to be rejected and it is rejected.

Ordered accordingly.

(**H.L.DATTU)**
CHIEF JUSTICE

(K.T.SANKARAN)
JUDGE

vns